

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 00-cv-670-DRH-DGW

No. 00-cv-677-DRH (consolidated)

CHEMETCO, INC.,

Defendant.

**PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, ATTORNEY
GENERAL OF THE STATE OF ILLINOIS**

Plaintiff,

v.

CHEMETCO, INC.,

Defendant.

ORDER

HERNDON, Chief Judge:

Before the Court is the parties' joint motion for second extension of interim order expiration date (Doc. 131). The motion is hereby **GRANTED** as set forth herein.

1. On September 15, 2011, this Court extended the expiration date of the Interim Order governing certain Work (as defined in the Interim Order) to be undertaken by the Chemetco Estate.



2. This Court has continuing jurisdiction over the subject matter of the Interim Order in accordance with paragraph 69 of that Order. This Court may approve modifications to the Interim Order in accordance with paragraph 76 of that Order. The Parties also have the opportunity to seek modifications of the Interim Order pursuant to FRCP 60(b)(6).

3. Both the State and the Estate of Chemetco are in agreement as to the importance of performing the work that is under way but not yet completed under the authority of the Interim Order but note that the Order contemplated that responsibility for oversight of activities would be transferred from Illinois EPA to US EPA in the wake of the Site being added to the National Priorities List and that a final Consent Decree resolving the pending enforcement cases and governing further remedial actions at the Site would be entered. The extension requested herein is necessary to allow current work to be completed in the context of the applicable Interim Order but also allow for the development of reliable estimates of any additional time necessary to complete activities outstanding under the Approved Work Plans and to submit and approve the required completion certifications or to incorporate remaining activities into the Final Consent Decree.

4. Work continues to be performed under the Interim Order. Specifically, the demolition of the Foundry Building, Tank House, and American Air Filter (AAF) system at the Chemetco Facility are nearly complete pursuant to the Approved Demolition Plan as attached to the July 9, 2010 Joint Motion to Modify Interim Order

as Exhibit A thereto which describes the Approved Demolition Plan. Additional time will be required to complete that work and submit the required reports.

5. Work is also being performed to complete the shipment off-site of Pot Slag and Furnace Cleanup Solids to complete a sale previously approved by the Bankruptcy Court under the auspices of the approved Pot Slag and Copper Furnace Clean up Solids Work Plans. All Cupro has been sold under the Cupro Work Plan and requires a certificate of completion from the IEPA, which is currently being sought.

6. Work is currently being performed to complete the shipment off-Site of 4,000 metric tons of Scrubber Sludge to complete a sale previously approved by the Bankruptcy Court under the auspices of the approved Scrubber Sludge Work Plan which includes the sale of scrubber sludge after being loaded into super sacks. This work will require additional time past November 30, 2011, to complete that work. The Trustee is exploring additional sales of unprocessed material currently located in the Fines Building and will be requesting approval of the required revisions to the applicable Work Plan.

7. Work is also currently being performed to complete the Scrap Metals Work Plan. Additional assets may be left to sell after the expiration of this extended Court Order which the parties agree is acceptable and will not be objected to as additional scrap may be available for sale and recycling because of the demolition of the structures previously listed.

8. Currently, the Parties anticipate that these various activities will be completed before February 1, 2012. The parties also understand that additional time

may be needed to complete all work plans and that such agreement to extend timelines will not be unreasonably withheld if progress is shown toward completion. For example, the sale of facility assets is dependent on market forces as well as diligence in selling and loading the materials. The parties do not intend to curtail the sale of these assets in any way.

9. In order to ensure completion of the Approved Work Plans under the Interim Order, the parties request that the current language of paragraph 46.a. of the Interim Order be amended as follows:

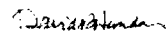
The Interim Order entered on September 16, 2008 which is said to expire three years hence is hereby extended by agreement of the parties and approval of this Court. The Interim Order will now terminate on February 1, 2012, or such later date as mutually agreed to by the parties and the Court, in writing, in order to allow completion of the Work under the Approved Demolition Plan, completion of the off-Site shipment of the Pot Slag, Scrubber Sludge, mixed fines and Furnace Cleanup Solids previously sold with the approval of the Bankruptcy Court in accordance with the Illinois EPA-Approved Work Plans and the additional sales of unprocessed material in the Fines Building. Certificates of Completion may be sought and obtained after that date as may be necessary and shall remain subject to the terms of the Interim Order.

The parties shall seek Court approval of any extensions agreed to by the Parties under Paragraph 76. As long as it is consistent with the transition of oversight of the Site to US EPA and with the Parties' intention to negotiate a final Consent Decree with US EPA and US DoJ, the Trustee may request additional extensions of this expiration date. Such requests must be based upon accurate and reliable estimates of the time necessary past February 1, 2012, to allow completion of the Work specified above that is being diligently performed. Such requests will be reviewed in accordance with Section XI of the Interim Order.

IT IS SO ORDERED.

Signed this 22nd day of November, 2011.

David R. Herndon



2011.11.22

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**Chief Judge
United States District Court**